



Amy G. Rabinowitz
Counsel

June 5, 2003

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station
Boston, MA 02110

Re: Comments on the Distributed Generation Tariff, D.T.E. 02-38

Dear Secretary Cottrell:

In response to the Department's May 19, 2003 request for comments on the model interconnection tariff ("Interconnection Tariff") proposed by the distributed generation collaborative ("Collaborative")¹, Massachusetts Electric Company and Nantucket Electric Company (collectively "Mass. Electric" or "Company") submit the following comments. The Company appreciates this opportunity.

On March 3, 2003, following extensive and in-depth discussions, the Collaborative submitted a joint report, "Proposed Uniform Standards for Interconnecting Distributed Generation in Massachusetts" ("Joint Report"). Following that submittal, members of the Collaborative continued to work intensively to develop the Interconnection Tariff to implement the standards set forth in the Joint Report.² These documents are the result of tremendous commitment and compromise by Collaborative members to reach a comprehensive policy, and the Company urges the Department to adopt them. Uniform interconnection standards in Massachusetts will provide clear guidance to all parties, and will expedite and simplify interconnections generally. In addition, the Federal Energy Regulatory Commission has suggested in its recent Advanced Notice of Proposed Rulemaking (RM02-12) that the Massachusetts interconnection process will be used in conjunction with other state standards to determine an appropriate national standard.

Mass. Electric's general goal in the development of the statewide policy was to develop procedures and standards that would facilitate the use of distributed generation

¹ The Massachusetts distribution companies, distributed generation providers, government and quasi-governmental agencies, consumers, and public interest groups make up the Collaborative.

² As noted in the May 15, 2003 cover letter of Raab Associates, Ltd. filing the Interconnection Tariff, the Interconnection Tariff is consistent with the Joint Report, but the Tariff language should be viewed as controlling to the extent that there are any conflicts in the language.

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by interested customers. At the same time, Mass. Electric sought to protect the rights of all of its other customers, who should not in any way have their service compromised or costs increase because of distributed generation. The safety and reliability of the distribution system is paramount, as is the avoidance of cross-subsidies by customers without distributed generation in favor of those with distributed generation.

Mass. Electric believes that the proposed Interconnection Tariff goes a long way toward these goals. As noted in Raab Associates, Ltd.'s cover letter, however, the Collaborative did not reach consensus on four issues. These are: timelines, applicability to Qualifying Facilities, supercedence, and certain cost allocation and adjustment procedures. In these comments, the Company will address each of these issues in turn.

Timelines

In the Joint Report, all parties except Real Energy agreed on the amount of time each step of the process should take. In Section 3.4 of the Interconnection Tariff, the timelines generally agreed to are set forth, as is Real Energy's dissenting opinion. Generally, Real Energy recommends a shorter time frame for the Expedited Process³ and the Standard Process.

The Collaborative spent a significant amount of time developing these timelines, and they represent the meeting point between the needs of customers, distributed generation providers, and the distribution companies. For customers and distributed generation providers, they are clearly defined and short enough to enable a streamlined process from start to actual interconnection. The distribution companies also benefit by their clear definition. Furthermore, Mass. Electric believes that these timelines will enable the Company to meet the needs of distributed generation customers without compromising its ability to address the specific needs of other customers and the reliability and safety of the distribution system generally. Engineers who are reviewing distributed generation projects are not as available as they otherwise would be to address other engineering needs on the system, but the Company was willing to commit to the generally agreed to timelines because it believes that they appropriately balance the various needs of all of the stakeholders. Many distributed generation proponents look to California's Rule 21 as a model. Mass. Electric has heard, however, from representatives of three California utilities, Pacific Gas & Electric Company, Southern California Edison, and San Diego Gas and Electric, that non-distributed generation customers are, in many cases, forced to wait for service so the utilities can meet the very tight timelines provided for in the rule.

Mass. Electric urges the Department to adopt the generally agreed to timelines, which are supported by the full spectrum of interests: distributed generation providers, customers, governmental and quasi-governmental agencies, and distribution companies.

³ All defined terms not otherwise defined in these comments shall have the meaning set forth in the Interconnection Tariff.

Mass. Electric urges the Department not to adopt the recommendations of Real Energy, a single distributed generation provider, which is advocating for its own interests only.

Applicability to Qualifying Facilities

As set forth in the cover letter accompanying the Joint Report, the Joint Report was not intended to replace or change 220 CMR 8.00. As set forth in the cover letter accompanying the Interconnection Tariff, however, there remains disagreement within the Collaborative as to the consistency and interrelationship between this proposed tariff and the existing regulations in 220 CMR 8.04.

Mass. Electric believes that this disagreement has arisen because a few members of the DG cluster think that the consensus timelines, which in some cases provide for review by the distribution company of a proposed interconnection for longer than ninety days, is inconsistent with 220 CMR 8.04. Mass. Electric strongly disagrees. The timelines that Mass. Electric currently follows, as set forth in its Interconnection Requirements Document, M.D.T.E. No. 1052, also provide for Mass. Electric review for greater than ninety days in certain instances. The Department specifically found Mass. Electric's timelines consistent with 220 CMR 8.04, following written discovery and an evidentiary hearing. D.T.E. 01-76, pp. 3-4. Thus, there is no inconsistency between the proposed Interconnection Tariff and 220 CMR 8.04.

What is most important here, however, is not the question of consistency, but the determination of the right thing to do. Mass. Electric recommends that the Department adopt the consensus timelines as the right answer, as they were developed based on current input from interested participants in the distributed generation experience. The timelines are for all distributed generation interconnections, not just Qualifying Facilities. A strict interpretation of the timelines set forth in 220 CMR 8.04, as Mass. Electric understands some members of the DG cluster to interpret them, could significantly lengthen the amount of time Mass. Electric would have to review projects under the Simplified Process or Expedited Process. This would be a perverse result.

More generally, Mass. Electric believes that the Department should adopt the consensus procedures, terms, conditions, and standards set forth in the Interconnection Tariff for all interconnections, both those subject to 220 CMR 8.00 et seq. and those not. This approach will ensure consistency and fairness. As the Department recognized in its order establishing 220 C.M.R. 8.00 et seq., the Department may have to take further action regarding interconnection issues in the future. Rulemaking to Revise 220 C.M.R. 8.00, et seq., D.T.E. 99-38, p. 5, n. 4 (1999). In addition, the Collaborative agrees that interconnections deserve ongoing review, and has requested that the Department authorize quarterly meetings over the next two years to jointly examine the interconnection experience as it unfolds in Massachusetts and the rest of the country, with the stated goal of further improving the currently proposed standards.

Supercedence

In Exhibit A of the Interconnection Tariff, the Interconnection Service Agreement, there is a disagreement as to whether the Interconnection Service Agreement or Interconnection Tariff controls in the event of a conflict between the two. The DG Cluster proposes language in paragraph 20 which would make the terms of the Interconnection Service Agreement control in the event of a conflict between the Interconnection Service Agreement and the Interconnection Tariff, with a desire to have the Interconnection Service Agreement not subject to modification based on future changes to the tariff. The Utility Cluster, consistent with general regulatory practice, proposes language which provides that the Interconnection Tariff is the controlling document.

The very purpose of a tariff is to have terms and conditions which apply to all similarly situated customers equally. Under the DG Cluster's model, however, updates to the Interconnection Tariff would not apply to distributed generation facilities already in place. Carving out distributed generation installations already in place from compliance with a revised tariff would significantly undermine the effectiveness of the revised tariff, and is inconsistent with the use of tariffs to set terms and conditions for customers.

Utilities would only seek to modify their interconnection tariffs when they recognize a need for that modification based on updated information about distributed generation implementation. They cannot modify any tariff without Department review and approval, during which interested distributed generation providers could give the Department their input.

Indeed, the very structure of the Interconnection Tariff recognizes that the Interconnection Service Agreement is the subservient document. It is an exhibit to and the implementing document of the Interconnection Tariff. It is a standard form contract which sets forth the specific details of the relevant interconnection, including the customer name and address, description of the facility, description of the distribution system modifications, cost and payment terms, special operating requirements, and third party ownership, if applicable. (Attachments 1-6). As provided in Paragraph 19 of the Interconnection Service Agreement, the Interconnection Service Agreement "is entered into pursuant to the Interconnection Tariff." It cannot be executed until and unless the Interconnection Tariff is in place.

Cost Allocation and Adjustment Procedures

The Collaborative did not reach agreement on the allocation of utility costs for studies or upgrades. In general, the utility position recommends that the distributed generation customer pay for the costs associated with its interconnection. The DG cluster's position speculates that the distribution system upgrades required by a distributed generation interconnection will benefit the distribution system as a whole, and limits the contribution that the Interconnecting Customer makes to the required

distribution system upgrades. If a utility would not need to make any system upgrades but for the proposed interconnection, however, it is inappropriate for the utility and its other customers to subsidize the distributed generation upgrade. On the other hand, if the system upgrades required for the interconnection are also required for the distribution system generally, it is appropriate to allocate the costs of the upgrade between the Interconnecting Customer and the utility. The Utility Cluster's proposed language achieves this objective.

Similarly, it is important that the Interconnecting Customer pay for the costs that the utility actually incurs to provide the interconnection. This policy is incorporated into paragraphs 5.2 and 5.3. Otherwise, the utility's other customers will be subsidizing that interconnection. The Interconnecting Customer has protection from unreasonable costs through the detailed dispute resolution procedure set forth in Section 9.

The Utility Cluster's proposed language in Section 5 is consistent with the Department's clearly established policy of requiring costs to be paid by those incurring them. See e.g. Gas Unbundling, D.T.E. 98-32-B at 31 (1999) (citations omitted); Electric Industry Restructuring, D.P.U. 96-100, at 51 (1996) (citations omitted); Generic Investigation of Rate Structures, D.P.U. 18810, at 14 (1977). It is also consistent with the Massachusetts Supreme Judicial Court's rejection of arguments by customers protesting hook-up charges as discriminatory because they subsidize future users of the system who would benefit from their hook-up payments to the utility. Bertone v. Department of Public Utilities, 411 Mass. 536, 546 ftnt. 11 (1992).

Other Issues

The Collaborative has requested Department authorization to continue its review of standards and procedures for interconnection over the next two years. Mass. Electric strongly endorses that recommendation. As more interconnections occur, the parties will gain knowledge and experience which should be incorporated into future standards and procedures. To this end, the Collaborative specifically requested the Department issue simply an interim order at this stage, with a final order issued after the results of the two year on-going collaborative have provided further insight into the interconnection process.

In addition, as noted in the May 15th cover letter accompanying the Interconnection Tariff, the Collaborative has identified other additional issues which need to be addressed. These include the rate issues which will be addressed in Phase 2 of this docket, and other costs for ongoing operation and maintenance of the distribution system modifications installed as a result of the interconnection. The Company looks forward to participating in these endeavors. The May 15th cover letter also stated that the Collaborative was not in complete agreement on who should own the meter. The Company notes that the Department has an open docket on metering issues, D.T.E. 01-28, which would be a more appropriate forum for this question. It should not be reviewed in this docket.

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Finally, the Company notes that the Department has asked for only one round of comments on the Interconnection Tariff. The Company has responded, addressing the issues set forth in the May 15th cover letter as unresolved. If another party's comments address other issues, the Company respectfully requests that the Department authorize another round of comments.

Thank you very much for this opportunity to provide these comments.

Very truly yours,

Amy G. Rabinowitz

cc: Service List